

No. 7344B(SA).—/Posting.—The Governor of Haryana is pleased to transfer Shri Dilbagh Singh, Commandant, 1st HAP Bn., Ambala City and to post him as Commandant, 2nd HAP Bn., Madhuban (Karnal), where he assumed the charge of his duties on the forenoon of 4th May, 1972.

No. 7353/B-2.—Leave.—The Governor of Haryana is pleased to grant 60 days, commuted leave to Shri Vishwa Nath Sharma, H.S.S., Superintendent (Office) of the Deputy Inspector General of Police, C.I.D. Haryana with effect from 21st March, 1972 to 20th May, 1972 under rule 8.119(b) of C. S. R. Volume I Part I. Had he not proceeded on leave, he would continued as such.

2. After the expiry of leave he is likely to move to a post at Chandigarh to which Chandigarh Commensatory and other usual allowances are attached.

The 23rd May, 1972

No. 7507/B-(SA).—Posting.—The Governor of Haryana is pleased to transfer Shri Om Parkash Bhaskar, Officiating Deputy Superintendent of Police, Karnal and to post him as D.S.P. Incharge C.P.O., Control Centre Haryana, Chandigarh, where he assumed the charge of his duties on the forenoon of 17th May, 1972.

The 24th May, 1972.

No. 6273/A(1).—In exercise of the powers conferred by section 49 of the Punjab Laws Act, 1872, the Government of Haryana hereby confers upon the following Cadets JIO, within the limits of the Haryana State the powers which may be exercised by a police officer under the Police Act, 1861, from the dates they report for duty in the district noted below against each till such time they complete their training in the State of Haryana—

- | | |
|------------------------------|-----------|
| 1. Shri B.K. Mehta | .. Rohtak |
| 2. Shri Zile Singh Sheok and | .. Rohtak |
| 3. Shri Surjan Singh | .. Rohtak |

The 25th May, 1972

No. 7572/B(SA).—Posting.—The Governor of Haryana is pleased to make the following transfers and postings among the Superintendents of Police in the State :—

Name of Officer	Place of taking over	Date on which took over
1. Shri S.H. Mohan, I.P.S., Comdt., 3rd H.A.P. Bn. Madhuban (Karnal)	Additional Superintendent of Police, Hissar	13-5-72 (forenoon)
2. Shri Swadesh Kumar, I.P.S., on repatriation from I.T.B. Police	Additional Superintendent of Police, Gurgaon	16-5-72 (forenoon)

J. C. VACHHER,

Joint Secretary.

LABOUR DEPARTMENT

The 11th May, 1972

No. 4991-4Lab-72/19409.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workmen and the management of M/s Spring and Stamping Incorporated Industrial Area, Faridabad.

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, HARYANA ROHTAK

Reference No. 178 of 1971

between

THE WORKMAN SHRI SHANKER KISHAN GAIKWARD C/O SHRI ASHOK KUMAR, GENERAL SECRETARY, GENERAL ENGG. MAZDOOR UNION, H. NO. 225, FARIDABAD AND THE MANAGEMENT OF M/S SPRING AND STAMPING INCORPORATED, INDUSTRIAL AREA FARIDABAD

Present :—

Nemo for the workman.

Shri A. R. Handa, for the management and Shri V. D. Mukheja, Factory Manager.

AWARD

Shri Shanker Kishan Gaikward was in the service of M/s. Spring and Stamping Incorporated, Industrial Area, Faridabad. His services were terminated and this gave rise to an industrial dispute. Accordingly the Governor of Haryana, referred the following dispute to this Court for adjudication,—
vide. Government Gazette Notification No. ID/FD/359-E-71/, dated 23rd September, 1971:—

“Whether the termination of services of Shri Shanker Kishan Gaikward was justified and in order ? If not; to what relief is he entitled ?

A preliminary objection has been raised on behalf of the management that the demand notice dated 23rd June, 1971 of the workman was received by the management only from the Conciliation Officer and no dispute exists between the parties and so the reference is illegal. On merits it was pleaded that the workman was on leave from 25th March, 1971 to 5th April, 1971 and he was to report on duty on 6th April, 1971 but he did not do so but on the contrary on 10 April 1971 an application for extension of leave for one month with effect from 6 April, 1971 was received by post from Bombay. It is pleaded that the workman had no earned leave in his account and so a letter dated 17th April, 1971 was sent to him under certificate of posting by which he was informed that his application for leave had been rejected but still the workman did not report for duty nor did he send any further application and only a notice of demand through the Conciliation Officer was received. The following issues were framed:—

1. Whether the reference is illegal for the reasons given in the written statement ?
2. Whether the workman has lost the lien on his service by reason of the continued absence without leave ?
3. If the above issues are found in favour of the workman, whether the termination of services of Shri Shanker Kishan Gaikward was justified and in order ? If not, to what relief is he intitled ?

Issue No. 1.—The workman in his notice of demand has alleged that the management have wrongfully terminated his services on 18th June 1971. On the allegation as made in the notice of demand in industrial dispute did arise, I, therefore, find this issue in favour of the workman.

Issue No 2.—The management have produced Shri V.D. Mukheja, their Factory Manager. He has duly proved that the workman was on leave from 25th March, 1971 to 5th April, 1971 and thereafter he did not report for duty. There is no rebuttal to this evidence. In fact either the workman nor his representative has cared to appear on the date fixed for evidence and the evidence of the Management on this point stand unrebutted. I, therefore find this issue in favour of the management.

Issue No 3.—This issue does not, arise in view on my findings on issue No 2 and I hold that the workman is not entitled to any relief. I give my award accordingly. There will be no order as to costs.

P. N. THUKRAL,

Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 723, dated, Rohtak, the 2nd May, 1972.

Forwarded, in quadruplicate, to the Secretary, to Government Haryana Labour, and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,

Presiding Officer,
Labour Court, Haryana, Rohtak.

18th May, 1972

No. 5422-4Lab-72/20277.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Haryana Co-operative Transport Ltd., Kaithal.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 51 of 1968.

between

The workmen and the management of M/s Haryana Co-operative Transport Ltd., Kaithal.

Present :—

Shri Harbans Lal for the workmen.

Shri M.L. Saini for the management.

AWARD

The workmen of M/s Haryana Cooperative Transport Ltd., Kaithal, raised a number of demands regarding fixation of their grades, payment of bonus, Trip Allowance, Supply of uniforms etc, which were not acceded to by the management. The matter was taken up before the Conciliation Officer but since no amicable settlement could be brought about, the parties made a joint application to the Government for the reference of the dispute. Therefore, the Governor of Haryana, in exercise of the powers conferred under sub-section (2) of Section 10 of the Industrial Disputes Act, 1947, referred the dispute for adjudication to this Tribunal *vide* order No. 8968-3 Lab-SF-68/23904, dated 24th September, 1968, the terms of reference being as per the demand notice dated 5th September, 1968, detailed below :—

1. The society has obtained a huge profit in the year 1967-68. But they have given bonus for month only. Bonus for two months more be paid to us.
2. Headquarters be fixed for every workman on remaining outside the headquarter. Allowance for Rs. 3 each be given to a driver and conductor.
3. Every transport in the district have raised the salaries of workmen. Therefore, our salaries be increased to 25 per cent of the pay.
4. Prices of the articles necessary for life have arisen enough. Therefore, the omission like the Indian Motor Transport Co. be given at the rate of 3 N.P. and it should be divided among the workers like the said company.
5. The prices of cloth have increased considerably, therefore, the compensation of uniform be raised to Rs 12.50 like the Karnal Co-operative Transport Society instead of Rs 10 which is very low.
6. Sunder Lal, Checker and Mohinder Singh, conductor be made permanent as they have completed 2 years of services.
7. Pay grade of Sunder Lal checker be fixed as 140—3—155 from April, 1961. All the arrears accrued be given to him.
8. Pay grade of Mohinder Kumar be fixed as 110—3—125 from April, 1967 like other conductors. All the arrears accrued be paid.
9. Pay grade of Lakhpat Rai, Checker be raised to 148—4—165 from April, 1967 like other workmen. Arrear accrued be paid.
10. When drivers and conductors are sent on special duty. Their allowances at the rate of Rs 4 each for drivers and conductor be paid.
11. On going out route one day pay for going on out route be paid.
12. Identification cards be supplied to each workman by the said society and society should bear the expenses accruing on it.

On receipt of the order of reference usual notices were given to the parties. In the statement of claim filed on behalf of the concerned workmen on 12th October, 1968 the demands contained in the demand notice were reiterated. The management filed the written statement on 23rd October, 1968 contesting the above demands of the workmen pleading *inter alia* that the same were barred under existing settlements between the parties.

The pleadings of the parties gave rise to the following issues.

1. Has there been any settlement affected between the workmen and the management of the concern; If so, what were the terms of this settlement and how does the same affects the present case ?
2. Are the workmen entitled to any more amount of bonus than what they have actually been paid ?
3. Should the Headquarters of the workmen be fixed and should the allowance at the rate of Rs 3 per day be given to the drivers and conductors who remain outside the Headquarters ?
4. Are the workmen entitled to increase in their salaries; If so, what ?
5. Are the workmen entitled to commission at the rate of 3 nP. on the sale of tickets ?
6. Are the workmen entitled to any increase in their uniforms allowance ; If so and what ?

7. Should Sunder Lal and Mohinder Singh conductors be made permanent ; If so, on what terms and with what details ?
8. Should the grade of Sunder Lal Checker be fixed at Rs 140—3—155 from April, 1967 and any arrear should be paid to him ? If so; how much?
9. Should the grade of Mohinder Kumar be fixed as Rs 110—3—125 from April, 1967 and any arrear of the same be paid to him ? If so, with what details ?
10. Should the grade of Dakhpai Rai Checker be upgraded to Rs 148—4—165 from April, 1967 ?
11. Should the drivers and conductors who go on any special duty be paid allowance at the rate of Rs 4 each per day ?
12. Are the workmen entitled to one day pay for going on out routes ?
13. Should any identification cards be supplied to the workmen and should the expenses of the same be borne by the management ?

The management examined one witness Shri Ram Lal Chaudhry Secretary of the respondent company and placed on record settlement Exhibit M-1 to Exhibit M.9 intimation of the settlement sent to the Labour Department Exhibit M.10, postal receipt Exhibit M. 11 to Exhibit M. 13, acknowledgement by the Conciliation Officer Exhibit M. 14 consolidated settlement Exhibit M. 15.

The workmen examined two witnesses, namely Shri Lakhpai Rai W.W. 1, Shri Harbans Lal, Office Secretary District Motor Transport Workers Union W.W. 2, and reliance was placed upon documentary evidence consisting of letter dated 1st September, 1968 Exhibit W.1. copies of certain resolutions passed by the union of the workers from time to time Exhibit W. 2 to W. 7.

My learned predecessor disposed of Issue No. 1,—vide his order dated 15th January, 1969 and thereafter further evidence of the parties on the other issues was taken. The workmen examined 5 more witnesses namely, Shri Madan Lal Gupta, General Secretary, District Motor Transport Workers Union, W. W. 3, Shri Dilbagh Singh, Booking Clerk W. W. 4, Shri Vas Dev Cashier W. W. 5, Shri Sudagar Mal Conductor W. W. 6, Sunder Lal Checker W. W. 7 (All employees of the respondent company).

Later on still another settlement was pleaded on behalf of the management and it was contended that on 25th April, 1969 the concerned workmen had entered into an agreement with the management as a result whereof the present reference had been rendered infructuous. Notice of the application made by the management in this behalf was given to the authorised representative of the workmen who denied the alleged settlement although in his statement dated 26th June, 1969 it was admitted by Shri Harbans Lal that excepting Lakhpai Rai and Sunder Lal, the rest of the workmen had entered into settlement with the management. The following additional issue was framed.

“Whether the reference has become infructuous by reason of settlement, dated 25th April, 1969 ?

Shri Sardul Singh, Managing Director of the respondent company has made his own statement and proved the said settlement Ex. M. W. 2/1 and the authorisation letter Ex. M. W. 2/2. Affidavits of as many as 19 workmen have also been placed on record to support the above contention. None has come forward on behalf of the workmen to make statement on oath to refute the above contention of the management, not even Sarvshri Sunder Lal and Lakhpai Rai who were not signatories to the Memorandum of Settlement.

Arguments have been addressed on both sides and written arguments have also been filed. I have given a very careful consideration to the material on record and the contentions raised by the learned representative of the parties.

The settlement in question is of 25th April, 1969 Ex. M. W. 2/1. A perusal of this document read with the authorisation letter Ex. M. W. 2/2 in this behalf would show that all the workers of the respondent company excepting Sarvshri Sunder Lal and Lakhpai Rai are signatories to the settlement. It has been argued on behalf of the management that since all the workmen barring two only have settled their disputes with the management as per the terms and conditions of the settlement referred to above, the present reference has been rendered infructuous. The contention has force especially when the remaining two workmen have not dared to come into the witness box and make statements on oath to deny the factum of the alleged settlement. In the circumstances the will of the majority of the workmen has to prevail, the demand leading to the present reference being mostly of general nature. There is no evidence that the settlement was a result of any fraud mis-representation or coercion on the part of the management. The mere fact that the settlement has been made after the reference of the disputes for adjudication to the Tribunal by itself is no ground to veto the settlement.

It will not be out of place to consider here that as admitted on both sides the respondent company has closed its transport business apparently on account of the withdrawal of the route permits under the scheme on the nationalisation of the Road Transport introduced by the State Government. This has further rendered demands of the workmen to be infructuous and incapable of enforcement particularly the demands for revision and the fixation of the grade, fixation of Headquarters and payment of night allowance to the drivers and conductors remaining outside the Headquarters, supply of uniforms and identification cards, payment of trip commission and special duty allowance etc. So judged from whatever angle the demands, the subject matter of the present reference, have become infructuous on account of the settlement dated 25th April, 1969 arrived at

between the workmen and the management and also because of the closure of the business by the respondent transport company. The workmen, in the result, are not entitled to any relief. They would, of course, be not deprived of the benefits acquiring to them under the aforesaid settlement dated 25th April, 1969. The award is made accordingly. In the circumstances, there shall be no order as to costs.

Dated 8th May, 1972.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

No. 561, dated the 9th May, 1972

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 8th May, 1972.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

No. 5423-4-Lab-72/20779.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Khadi Ashram, G. T. Road, Panipat.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Application No. 40 of 1971 under section 33-A of the Industrial Disputes Act, 1947.

between

SHRI HARI SINGH WORKMEN AND THE MANAGEMENT OF M/S KHADI ASHRAM, G. T. ROAD, PANIPAT

Present—

Shri Raghbir Singh for the workman.
Shri Roshan Lal Gupta for the management.

AWARD

This is a complaint under section 33-A of the Industrial Disputes Act, 1947. Shri Hari Singh, a workman of M/s Khadi Ashram, G. T. Road, Panipat, has alleged that during the pendency of reference No. 55 of 1971 between the workmen and the management conditions of his service have been altered by transferring him from one place to another and by making unauthorised deductions from his wages. This according to him has been done by the management in contravention of the provisions of section 33 of the Act and by way of victimisation in order to create a rift amongst the union of the workers.

With the above averments in brief, Shri Hari Singh has prayed that necessary directions should be issued to the management for his re-transfer to Panipat and also for the restoration of his wages which have been illegally deducted.

Notice of the complaint was given to the management besides contesting the claim of Shri Hari Singh on merits. It has been urged that the appropriate Government being the Central Government and not the Haryana State Government, the reference No. 55 of 1971 is invalid and as such there was no pendency before this Tribunal to attract the provisions of section 33-A of the Act.

The following three issues were framed :—

- (1) Whether the application can not be entertained for the reasons in Para 1 and 2 of the written statement ?
- (2) Whether there has been any contravention of section 33 of the Industrial Disputes Act, 1947, so as to entertain the application under section 33-A of the Act ?
- (3) Relief.

The question whether the proper Government is the Central Government or the Haryana State Government has yet to be decided in the main Reference No. 55 of 1971. That is, however, immaterial for the disposal of the present complaint as according to the statement of Shri Raghbir Singh, authorised representative of the complainant, Shri Hari Singh the workman concerned has left service with the management and he has no intention

to proceed with the present complaint. The complaint, in the result, has to stand dismissed irrespective of the fact whether there was or was not a legal pendency before this Tribunal. I, therefore, dismiss the complaint as having been withdrawn. There shall be no order as to costs.

O. P. SHARMA,
Presiding Officer,

Dated the 28th April, 1972.

Industrial Tribunal, Haryana, Faridabad.

No. 563, dated 9th May, 1972

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,

Dated the 28th April, 1972.

Industrial Tribunal, Haryana, Faridabad.

No. 5421-4Lab-72/20286.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to Publish the following award of the Presiding Officer, Industrial Tribunal Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Hindustan Vaccum Glass Ltd., Faridabad.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD

Reference No. 27 of 1969.

between

The workmen and the management of M/s Hindustan Vaccum Glass Ltd., Faridabad.

Present :—

Shri Amar Singh, for the workmen.

Shri C.M. Lal and Shri N. Dutta, for the management.

AWARD

The workmen of M/s Hindustan Vaccum Glass Ltd., Faridabad raised a demand for grant of bonus for the years 1966-67, 1967-68 which was not acceded to by the management. This gave rise to an industrial dispute which has been referred for adjudication to this Tribunal by the Governor of Haryana, on a joint application of the parties in exercise of the powers conferred under sub section (2) of Section 10 of the Industrial Disputes Act, 1947, the term of reference being as given under as per the joint application Annexure 'A'.

Whether any bonus for the years 1966-67 and 1967-68 is payable and if so what amount ?

On receipt of the order of reference usual notices were given to the parties. The workmen put in their statement of claim reiterating their demand for bonus with the allegations that the management had started production of glass beads and glass tumbler Jugs and flasks etc., in the beginning of 1961. The management on the other hand contended that the company first sold the goods in October, 1962 and had been running into losses since its inception and the present reference was, therefore, barred by section 16(1)(b) of the Payment of Bonus Act, 1965. My learned predecessor framed the following two issues.

1. Whether the respondent company started production in the year 1962 and has not completed 6th accruing years of production and is running in a loss and for this reason the present reference is barred by section 16(1)(b) of the Payment of Bonus Act, 1965 ?
2. If issue No. 1 is found in favour of the workmen to what bonus they are entitled ?

The management examined its Accounts Officer Shri Naval Kishore M.W. 1 who proved the balance sheets Exhibit M.W. 1/1 to Exhibit M.W. 1/6 besides the profit and loss account statement Exhibit M.W. 1/9 and some other documents including copies of the demand notices of the workmen and some correspondence with the Labour Department of the State Government. The workmen examined two witnesses W.W. 1 Shri Bhagwan Singh and W.W. 2 Shri Thakur Dass. Shri Bhagwan Singh W.W. 1 deposed that he had been working in the factory since 1960 and there were 200 male workers besides 85 Female workers and about 50 kilos of beads were manufactured daily in the factory. W.W. 2 Shri Thakur Das stated that in 1959 he was running a tea stall in front of the Factory and that since 1967 he had been working as a Checker in the factory. In cross examination he stated that there were about 200 to 250 male workers and 60 to 80 Female workers but he could not give any idea of the quantum of Beeds manufactured daily in the factory. On the application of the management my learned predecessor amended issue No. 1 as detailed below.

Whether the respondent company started selling the goods produced by them from the Accounting year 1962 and has not completed the 6th Accounting year following

the accounting years 1962-63 and is running in a loss and for this reason the present reference is barred by section 16(1)(b) of the Payment of Bonus Act, 1965 ?

After the amendment of the issue the management recalled Shri Naval Kishore M.W. 1 who deposed that the first sale of the products of the company as per entries in the ledger book was recorded for August, 1962. He produced the relevant entries from the ledger which are Exhibit M.W. 1/10 and Exhibit M.W.1/11. According to this witness the company had not sold its products in the market earlier to August, 1962. In cross examination he refuted the suggestion made on behalf of the workmen that 50 kilogrammes of pearls (beeds) were manufactured daily and the same were sold in Bhopal and Nepal. The management did not produce any other evidence.

The workmen have examined two more witnesses including Shri M.L. Malik, Labour Officer, Faridabad W.W. 3 and Shri B.L. Chopra Head Clerk, office of the Regional Provident Fund Commissioner, Haryana, Chandigarh W.W. 4. Shri Malik W.W. 3 has produced letter No. B/12/177/1367, dated the 3rd March, 1962 Exhibit W.W.3/1, regarding termination of services of 82 workers by the management, demand notice, dated 2nd March, 1962 Exhibit W.W. 3/2 and the authority letter in form 'F' Exhibit W.W. 3/3. In cross examination he has further stated that the record before 1962 is not available in the office. According to W.W. 4 Shri B.L. Chopra, the Provident Fund Scheme was introduced in this company with effect from September 11, 1964. He has also produced copy of the letter dated 22nd September, 1964, received from the company copy Exhibit W.W. 4/1.

After examining the aforesaid two witnesses, the workmen obtained an adjournment to produce further evidence. The evidence was, however, closed on 24th January, 1972 without examining any other witness. Thereafter two adjournments were granted for arguments on the request of the workmen. On 22nd March, 1972 the date fixed for arguments none appeared on behalf of the workmen. Their authorised representative who had been conducting the case from the very beginning did not appear nor his junior who had been appearing on his behalf on some earlier dates. No request for adjournment was either received. Arguments of learned representative of the management were, therefore, heard.

I have very carefully gone through the pleadings of the parties and the material on record. The plea raised on behalf of the management that the company started production in the year 1962 and had not completed sixth year of production before 1966-67, 1967-68 for which period bonus has been claimed appears to be forceful. It is fully borne out from the documentary evidence brought on record which has been proved by Shri Naval Kishore Accountant M.W. 1. He has proved the balance sheets, profit and loss account statements and other documents for the relevant period which have been referred to above. The workmen have produced no reasonable rebuttal of the above evidence and an unsuccessful attempt was made to prove from the statements of the Labour-Cum-Conciliation Officer and the Head Clerk of the Regional Provident Fund Commissioner, Haryana, Chandigarh, to show that the company had actually started production earlier to August 1962. But the statements of these witnesses do not support the contention of the workmen. According to Shri B.L. Chopra M.W. 2 the Provident Fund Scheme in this company was started in September, 1964. The documents proved by Shri M.L. Malik, the Labour Officer W.W. 3 do not prove anything beyond showing that the management had terminate the services of the large number of workmen in 1962 and that certain demands had been raised by the workmen *vide* demand notice dated 2nd March 1962.

A careful scrutiny of the material on record would thus show that this company had not started production in 1961 as alleged on behalf of the workmen and that the first sale of the products of the company had taken place only in August, 1962. According to the assertion made on behalf of the management the accounting year of the company was from May to April and taking into consideration the facts discussed above the presumption was irrebuttable that the company had not completed the sixth accounting year following the first accounting year of 1962-63 before 1966-67, 1967-68 for which period bonus has been claimed.

It is further established beyond any shadow of doubt that the company has been running into losses from its very inception. The balance sheets and profit and loss account statements produced by the management speak for themselves. The workmen have again failed to rebut the evidence of the management on his point. They have not filed any computation chart either.

In view of the above I am quite clear in my mind that the respondent company is entitled to exemption from the payment of bonus for the year 1966-67, as contemplated under section 16(1)(b) of the Payment of Bonus Act, 1965. The issue is held accordingly. In the circumstances, the question of determining the quantum of bonus for the relevant period covered by issue No. 2 which has become redundant does not arise. The award is made accordingly. There shall be no order as to costs.

O.P. SHARMA,

The 8th May, 1972

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 562, dated 9th May, 1972.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 8th May, 1972

O.P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

ANNEXURE 'A'
FORM A
(See Rule 3)

Application for the reference of an Industrial Dispute to the Tribunal Haryana under section 10(2) of the Industrial Disputes Act, 1947.

Whereas an Industrial Dispute exists between Messrs. Hindustan Vacuum Glass Ltd; Faridabad and Hindustan Vacuum Glass Workers Union, Faridabad and it is expedient that the matters specified in the enclosed statement, which are connected with or relevant to the dispute, should be referred for adjudication by the Tribunal an application is hereby made under sub-section (2) of Section 10 of the Industrial Disputes Act, 1947, that the said dispute should be referred to the Tribunal.

This application is made by the undersigned who have been duly authorised to do so by virtue of the resolution (copy enclosed) adopted by a majority of members present at meeting of the Hindustan Vacuum Glass Workers Union held on the 18th October, 1968.

A statement giving the particulars required under Rule 3 of the Industrial Disputes (Punjab) Rules, 1959, is attached.

Dated the 16th of December, 1968.

Signature of
(Sd).

Manager,
for Hindustan Vacuum Glass Ltd;

Signature of
(Sd) . . . ,

Presiding Bhagwan Singh,
Secretary Churaman Sharma
of the Trade Union.

To

The Secretary to Government, Haryana,
Labour Department, Chandigarh.

Statement required under rule 3 of the Industrial Disputes (Punjab) Rules, 1958 to accompany the form of application prescribed under sub-section (2) of section 10 of the Industrial Disputes Act, 1947.

(a) Parties to the dispute including the name and address of the establishment of undertaking involved
Hindustan Vacuum Glass Ltd; Faridabad

versus

Hindustan Vacuum Glass Workers Union, Faridabad.

(b) Whether any Bonus for the years 1966-67 and 1967-68 is payable and if so what amount.

(c) 330.

(d) As above.

(e) A copy of the Agreement arrived at between the parties before the Conciliation Officer, copy enclosed

(Sd) . . . ,

Manager,
For Hindustan Vacuum Glass Ltd ;
Faridabad.

The 19th May, 1972

No. 5504-4Lab-72/20478.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Pioneer Refractories, 12/2 Mathura Road, Faridabad.

**BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA
FARIDABAD**

Reference No. 80 of 1971

Between

**THE WORKMEN AND THE MANAGEMENT OF M/S PIONEER REFRACTORIES, 12/2 MATHURA
ROAD, FARIDABAD**

Present.—Nemo for the workmen.

Shri B.R. Grover, for the management.

AWARD

The following disputes between M/s Pioneer Refractories, 12/2 Mathura Road, Faridabad and its workmen were referred for adjudication to this Tribunal by the Governor of Haryana in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947.

(1) Whether the gratuity scheme should be introduced ? If so, with what details ?

(2) Whether the workmen should be supplied with uniforms ? If so, with what details ?

On receipt of the order of reference usual notices were given to the parties. The workmen filed the statement of claim reiterating the demand raised earlier through demand notice dated 2nd February, 1971. The management contested the above demands on merits and raised some technical objections giving rise to the following three preliminary issues :—

(1) Whether the Industrial Workers Union, Faridabad has locus standi to represent the concerned workmen ? (on workmen)

- (2) Whether the present dispute has been properly espoused ? (on workmen)
- (3) Whether the demands in question were first raised on the management and rejected by it ? If not, with what effect ? (on workmen)
- (4) Whether the gratuity scheme should be introduced. If so, with what details ?
- (5) Whether the workmen should be supplied with uniforms ? If so, with what details ?

The workmen have adduced no evidence, oral or documentary in support of the above issues. Not a single workman has come forward to refute the contentions raised by the management in the written statement. They have further chosen not to appear and pursue the case. Their authorised representative who had given the demand notice leading to the present reference has also not appeared. In the circumstances, there was no alternative but to proceed with the case in the absence of the workmen.

Statement of Shri B.R. Grover, authorised representative of the management has been recorded. According to him the demands the subject matter of the present reference, were never raised by the workmen direct on the management nor rejected by it before taking into the matter to the Conciliation Officer which was necessary as per the rule of law laid down in the Sindhu Re-settlement Corporation case.

Shri Grover has further asserted that the Industrial Workers Union had not even the locus standi to raise any dispute on behalf of the workmen in the establishment who are not members of the union. This contention again does not appear to be without force. The burden was on the workmen to establish for documentary or other reliable evidence that the union had the representative character and the demands the subject matter of the present reference had been properly espoused by a substantial number of the workmen of the establishment.

For the reasons aforesaid, issues Nos. 1, 2 and 3 are decided against the workmen and it is held that there was no industrial dispute between the parties which could validly be referred for adjudication to this Tribunal. The award is made accordingly but without any order as to costs.

The 12th May, 1970

O.P. SHARMA,
Presiding Officer, Industrial Tribunal,
Haryana, Faridabad.

No. 569, dated the 12th May, 1972

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

The 12th May, 1972.

O.P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

No. 5516-4Lab-72./20480.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Indian Metal Industries, N.I.T., Faridabad.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA
FARIDABAD

Reference No. 5 of 1972.

Between

THE WORKMEN AND THE MANAGEMENT OF M/S INDIAN METAL INDUSTRIES, N.I.T.,
FARIDABAD

Present.—Nemo for the workmen.

Shri D.C. Bhardwaj, for the management.

AWARD

The following disputes between the management of M/s Indian Metal Industries, N.I.T., Faridabad and its workmen have been referred for adjudication to this Tribunal by the Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

- (1) Whether the management should pay bonus to the workmen for the years 1968-69 and 1969-70 ? If so, with what details ?
- (2) Whether the management should supply uniforms to the workmen ? If so, with what details ?

On receipt of the order of reference usual notices were given to the parties. The workmen have not filed any statement of claim inspite of due service and 3 dates of hearing fixed for the purpose. They have not even turned up and their authorised representative Shri Amar Singh Sharma, General Secretary of the General Engineering Mazdoor Union, Faridabad who had given the demand notice leading to the present reference has also chosen not to appear and pursue the case on behalf of the workmen.

The management has filed the written statement contesting the demand of the workmen pleading inter alia that the factory has been closed with effect from 1st of May, 1971 and there is no worker on the rolls.

Statement of Shri D.C. Bhardwaj, authorised representative of the management has been recorded and he has produced the closure notice dated 28th April, 1971 Ex. M-1, and the list of the 21 affected workers Ex. M-2. According to him copies of the closure notices were sent to the authorities concerned and it was also displayed on the notice board in the factory. It has further been stated that the workers have been paid their dues.

I have heard the learned representative of the management and given a careful consideration to the material on record. The contention put forward on behalf of the management regarding the closure of the factory since 1st of May, 1971 has been substantiated by documentary evidence. This finds further support from the conduct of the workers themselves who have not come forward to file the statement of claim in support of their demands and pursue the same in spite of due service and reasonable adjournments granted in the case. In the circumstances, the presumption is irrebuttable that there is no industrial dispute between the parties manifestly on account of the closure of the factory. A no dispute award is, therefore, given in the case but without any order as to costs.

The 12th May, 1972.

O.P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad

No. 568, dated the 12th May, 1972

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

The 12th May, 1972.

O.P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

B.L. AHUJA,

Commissioner for Labour and Employment, and

The 20th May, 1972.

Department, notification No. 12280-71/36482, dated the 3rd November, 1971, namely :—

Amendment

No. 5328-ASO-Lab-72/20526.—In exercise of the powers conferred by sub-section(1) of the section 8 of the Factories Act, 1948 (Central Act 63 of 1948), the Governor of Haryana hereby makes the following amendment in the Haryana Government, Labour

In the said notification, against serial No. 1 for the words, "Labour Commissioner, Haryana," the words, "additional Chief Inspector of Factories" shall be substituted.

LABOUR AND EMPLOYMENT DEPARTMENT

The 24th April, 1972

No. 5539-1Lab-72/20913.—The Governor of Haryana is pleased to make the following appointment and posting—

Serial No.	Name of Officer	Appointed and posted as	with effect from	Remarks
1	Gurcharan Dass Malhotra	Assistant Employment Officer, District Employment Exchange, Narnaul	1-5-72 (F.N.)	Against the existing vacancy

B.L. AHUJA

Commissioner for Labour and Employment and Secy.